

Introduced by Senator Fuller**(Coauthors: Senators Berryhill, Evans, Gaines, Nielsen, Padilla,
and Vidak)****(Coauthors: Assembly Members Conway, Dahle, Beth Gaines, Gray,
Grove, Logue, Olsen, Pan, Perea, and Yamada)**February 21, 2014

An act to amend Sections 275.6 and 739.3 of the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1364, as introduced, Fuller. Telecommunications universal service programs: California High-Cost Fund-A program.

Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The universal service principles include the principle that consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including telephone

corporations, and to fix just and reasonable rates and charges for the public utility. Existing law establishes the state's universal service funds in the State Treasury, including the California High-Cost Fund-A Administrative Committee Fund and the California High-Cost Fund-B Administrative Committee Fund, and provides that moneys in each of the state's universal service funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service. Moneys in the funds may only be expended to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation. Existing law, until January 1, 2015, requires the commission to develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by universal service rate support to small independent telephone corporations that serve rural areas and are subject to rate-of-return regulation by the commission (the CHCF-A program). Existing law, until January 1, 2015, requires the commission to develop, implement, and maintain a suitable, competitively neutral, and broadbased program to establish a fair and equitable local rate support structure aided by universal service rate support to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission (the CHCF-B program).

This bill would extend the repeal date of the CHCF-A program and CHCF-B program requirements until January 1, 2019.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the CHCF-A program and CHCF-B program, that are extended under the provisions of this bill, are within the act and a decision or order of the commission implements the programs' requirements, the bill would impose a state-mandated local program by expanding the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 275.6 of the Public Utilities Code is
2 amended to read:
3 275.6. (a) The commission shall exercise its regulatory
4 authority to maintain the California High-Cost Fund-A Program
5 to provide universal service rate support to small independent
6 telephone corporations in amounts sufficient to meet the revenue
7 requirements established by the commission through rate-of-return
8 regulation in furtherance of the state's universal service
9 commitment to the continued affordability and widespread
10 availability of safe, reliable, high-quality communications services
11 in rural areas of the state.
12 (b) For purposes of this section, the following terms have the
13 following meanings:
14 (1) "Carrier of last resort" means a telephone corporation that
15 is required to fulfill all reasonable requests for service within its
16 service territory.
17 (2) "Rate base" means the value of a telephone corporation's
18 plant and equipment that is reasonably necessary to provide
19 regulated voice services and access to advanced services, and upon
20 which the telephone corporation is entitled to a fair opportunity to
21 earn a reasonable rate of return.
22 (3) "Rate design" means the mix of end user rates, high-cost
23 support, and other revenue sources that are targeted to provide a
24 fair opportunity to meet the revenue requirement of the telephone
25 corporation.
26 (4) "Rate-of-return regulation" means a regulatory structure
27 whereby the commission establishes a telephone corporation's
28 revenue requirements, and then fashions a rate design to provide
29 the company a fair opportunity to meet the revenue requirement.
30 (5) "Revenue requirement" means the amount that is necessary
31 for a telephone corporation to recover its reasonable expenses and
32 tax liabilities and earn a reasonable rate of return on its rate base.
33 (6) "Small independent telephone corporations" are rural
34 incumbent local exchange carriers subject to commission
35 regulation.

1 (c) In administering the California High-Cost Fund-A Program,
2 the commission shall do all of the following:

3 (1) Continue to set rates to be charged by the small independent
4 telephone corporations in accordance with Sections 451, 454, 455,
5 and 728.

6 (2) Employ rate-of-return regulation to determine a small
7 independent telephone corporation's revenue requirement in a
8 manner that provides revenues and earnings sufficient to allow the
9 telephone corporation to deliver safe, reliable, high-quality voice
10 communication service and fulfill its obligations as a carrier of
11 last resort in its service territory, and to afford the telephone
12 corporation a fair opportunity to earn a reasonable return on its
13 investments, attract capital for investment on reasonable terms,
14 and ensure the financial integrity of the telephone corporation.

15 (3) Ensure that rates charged to customers of small independent
16 telephone corporations are just and reasonable and are reasonably
17 comparable to rates charged to customers of urban telephone
18 corporations.

19 (4) Provide universal service rate support from the California
20 High-Cost Fund-A Administrative Committee Fund to small
21 independent telephone corporations in an amount sufficient to
22 supply the portion of the revenue requirement that cannot
23 reasonably be provided by the customers of each small independent
24 telephone corporation after receipt of federal universal service rate
25 support.

26 (5) Promote customer access to advanced services and
27 deployment of broadband-capable facilities in rural areas that is
28 reasonably comparable to that in urban areas, consistent with
29 national communications policy.

30 (6) Include all reasonable investments necessary to provide for
31 the delivery of high-quality voice communication services and the
32 deployment of broadband-capable facilities in the rate base of
33 small independent telephone corporations.

34 (7) Ensure that support is not excessive so that the burden on
35 all contributors to the California High-Cost Fund-A Program is
36 limited.

37 (d) In order to participate in the California High-Cost Fund-A
38 Program, a small independent telephone corporation shall meet
39 all of the following requirements:

40 (1) Be subject to rate-of-return regulation.

1 (2) Be subject to the commission's regulation of telephone
2 corporations pursuant to this division.

3 (3) Be a carrier of last resort in their service territory.

4 (4) Qualify as a rural telephone company under federal law (47
5 U.S.C. Section 153(44)).

6 (e) Upon request from the commission, a small independent
7 telephone corporation that receives support from the California
8 High-Cost Fund-A Program shall provide information regarding
9 revenues derived from the provision of unregulated internet access
10 service by that corporation or its affiliate within that corporation's
11 telephone service territory. The commission shall treat as
12 confidential any information provided pursuant to this subdivision.

13 (f) The commission shall structure the programs required by
14 this section so that any charge imposed to promote the goals of
15 universal service reasonably equals the value of the benefits of
16 universal service to contributing entities and their subscribers.

17 (g) This section shall remain in effect only until January 1, ~~2015~~,
18 2019, and as of that date is repealed, unless a later enacted statute,
19 that is enacted before January 1, ~~2015~~, 2019, deletes or extends
20 that date.

21 SEC. 2. Section 739.3 of the Public Utilities Code is amended
22 to read:

23 739.3. (a) The commission shall develop, implement, and
24 maintain a suitable program to establish a fair and equitable local
25 rate structure aided by universal service rate support to small
26 independent telephone corporations serving rural and small
27 metropolitan areas. The purpose of the program shall be to promote
28 the goals of universal telephone service and to reduce any disparity
29 in the rates charged by those companies.

30 (b) For purposes of this section, small independent telephone
31 corporations means those independent telephone corporations
32 serving rural areas, as determined by the commission.

33 (c) The commission shall develop, implement, and maintain a
34 suitable, competitively neutral, and broadbased program to
35 establish a fair and equitable local rate support structure aided by
36 universal service rate support to telephone corporations serving
37 areas where the cost of providing services exceeds rates charged
38 by providers, as determined by the commission. The commission
39 shall develop and implement the program on or before October 1,
40 1996. The purpose of the program shall be to promote the goals

1 of universal telephone service and to reduce any disparity in the
2 rates charged by those companies. Except as otherwise explicitly
3 provided, this subdivision does not limit the manner in which the
4 commission collects and disburses funds, and does not limit the
5 manner in which it may include or exclude the revenue of
6 contributing entities in structuring the program.

7 (d) The commission shall structure the programs required by
8 this section so that any charge imposed to promote the goals of
9 universal service reasonably equals the value of the benefits of
10 universal service to contributing entities and their subscribers.

11 (e) The commission shall investigate reducing the level of
12 universal service rate support, or elimination of universal service
13 rate support in service areas with demonstrated competition.

14 (f) By July 1, 2010, the commission shall prepare and submit
15 to the Legislature a report on the affordability of basic telephone
16 service in areas funded by the California High-Cost Fund-B
17 Administrative Committee Fund. The report, among other things,
18 shall provide information on prices and costs of basic telephone
19 service, and penetration and utilization rates of basic telephone
20 service by income, ethnicity, age, and other demographic
21 characteristics, using surveys and other methods of identifying the
22 factors affecting affordability of basic telephone service for
23 customers and noncustomers. The report shall describe the
24 characteristics of noncustomers and their reasons for not having
25 telephone service. The report shall identify those persons most at
26 risk of losing basic telephone service. The report shall be funded
27 out of the California High-Cost Fund-B Administrative Committee
28 Fund.

29 (g) This section shall only apply to the California High-Cost
30 Fund-B Administrative Committee Fund program.

31 (h) This section shall remain in effect only until January 1, ~~2015~~;
32 ~~2019~~, and as of that date is repealed, unless a later enacted statute,
33 that is enacted before January 1, ~~2015~~, ~~2019~~, deletes or extends
34 that date.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 SEC. 4. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to ensure that the Public Utilities Commission has the
9 necessary statutory direction to fund the state's universal service
10 programs at the earliest possible time, it is necessary for this act
11 to take effect immediately.

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